

REMARKS

Applicant has reviewed the Office Action dated September 21, 2009, and the documents cited therewith and the present Amendment has been prepared in response thereto. Independent Claims 1, 17, 32 and 48 have been amended herein. Claims 55-59 have been newly added herein. No claims fees are required because Applicants have paid for 54 total claims and adding Claims 55-59 only results in 53 total claims being examined. In light of the Amendments and the Remarks presented herein, it is submitted that all pending claims are in condition for allowance.

I. Summary of the Rejections

Claims 48-52 and 54 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Claims 1- 3, 5, 7-13, 15-24, 32-38, 40-42, 48-52 and 54 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application Publication No. 2003/0076408 to Dutta (“Dutta”) in view of U.S. Patent Application Publication No. 2002/0102966 to Lev et al. (“Lev”) and in further view of U.S. Patent No. 7,245,404 to Bushley (“Bushley”).

II. The 35 U.S.C. §101 Rejections Directed to Claims 48-52 and 54 Should be Withdrawn

With regard to the 35 U.S.C. §101 rejection of Claims 48-52 and 54, these claims have been amended to recite “a computer readable storage medium...” (emphasis added). Additionally, Applicants have amended paragraph [0039] of the present application to clarify the computer readable storage medium relates to a medium that can store data/information, such as a hard drive, memory, etc. Independent Claim 48 has been amended to recite the functional interrelationship between the computer program code and a computer that permits the computer executable instruction’s functionality to be realized. The computer readable storage medium of Claims 48-52 and 54 is, thus, patentable subject matter under 35 U.S.C. §101. Applicants respectfully submit that Claims 48-52 and 54, as amended, recite statutory subject matter. Reconsideration and withdrawal of the §101 rejection of Claims 48-52 and 54 is respectfully solicited.

III. The 35 U.S.C. §103 Rejections Directed to Claims 1- 3, 5, 7-13, 15-24, 32-38, 40-42, 48-52 and 54 Should be Withdrawn

Dutta is directed to a method for “scanning an image and/or taking a picture under low light conditions.” See Dutta at paragraph [0002]. Such method of Dutta allows for reconstruction of an image to remove distortions in the image caused by motion of a handheld device and/or the low lighting conditions, as discussed in Dutta’s Summary of the Invention section. This concept is illustrated in Figures 4 and 6 of Dutta.

In contrast, Claim 1, as amended, recites:

“A device for communication, comprising:
an optical sensor to capture an image, the image comprising a class of data embedded in the image, the class of data having an associated predetermined function and comprising at least one of characters and numbers; and
a processor configured to identify the class of data in the image from a plurality of possible classes of data and automatically perform a the associated predetermined function in response to the class of data being identified.”

Independent Claims 17, 32 and 48 include similar recitations.

Paragraph [0023] and Figures 3 and 5 of Dutta were cited as teaching the above recitations of Claim 1. Paragraph [0023] of Dutta recites (emphasis added):

“[0023] The reconstructed image is then displayed on the display of the handheld device, transmitted to a separate display connected to the handheld device (either through a local wire connection to a local display or through a connection through a network or through the internet to a remote display), or transmitted wirelessly to a local or remote display device or storage medium. *Alternatively, or in addition, the reconstructed image may be stored locally or remotely as an image or converted from an image into text, etc., by an optical character recognition (OCR) program. The text may then be added to an appropriate local or remote database, such as a list of telephone numbers, internet addresses (URLs), e-mail addresses, names, etc., which can later be accessed by the handheld device or another device to initiate a telephone call, browse the Internet, send an e-mail message, etc.*”

Accordingly, Dutta merely discloses that the reconstructed image may be converted into text, which then may be added to a database, such as a list of telephone numbers, URLs, email addresses, names, etc. Dutta does not disclose “a processor configured to identify the class of data in the image from a plurality of possible classes of data and automatically perform the associated predetermined function in response to the class of data being identified,” as recited in the

independent claims of the present application. In this regard, Dutta does not disclose a processor configured for *identifying the class of data* of the extracted text nor does Dutta disclose *automatically* performing a predetermined function *in response to* such identification. The functions of Dutta are performed manually (not automatically) only and certainly not “in response to identifying the class of data.”

Additionally, Figure 3 of Dutta was cited in rejecting Claim 1. Figure 3 merely illustrates a processing device that outputs an “image to display.” There is no disclosure in Figure 3 or the related discussion in Dutta of “a processor configured to identify the class of data in the image from a plurality of possible classes of data and automatically perform the associated predetermined function in response to the class of data being identified.” It is noted that Figure 5 of Dutta was also cited against Claim 1. Yet, Figure 5 of Dutta merely illustrates an optical character recognition (OCR) of text in an image. Still there is no disclosure in any portion of Dutta of “a processor configured to identify the class of data in the image from a plurality of possible classes of data and automatically perform the associated predetermined function in response to the class of data being identified.”

For the above reasons, it is submitted that the invention as recited in Claim 1, and the claims depending therefrom, are patentably distinguishable over Dutta. Since independent claims 17, 32 and 48, and the claims depending therefrom, contain recitations similar to Claim 1, these claims are also patentably distinguishable over Dutta for the same reasons.

It is noted that neither Lev nor Bushy disclose, or were cited as disclosing any of the above claim recitations of Claim 1. These references are only directed to devices for scanning bar codes (Lev) or dynamically-programmed network appliances (Bushy). However, neither Lev nor Bushy disclose “an optical sensor to capture an image, the image comprising a class of data embedded in the image, the class of data having an associated predetermined function and comprising at least one of characters and numbers;” and “a processor configured to identify the class of data in the image from a plurality of possible classes of data and automatically perform the associated predetermined function in response to the class of data being identified,” as recited in the present claims.

For at least the reasons discussed above, it is submitted that Dutta, Lev and Bushley do not teach or suggest, either singly or in combination, all of the elements of independent Claims 1, 17,

32, and 48, and the claims depending therefrom. Thus, Claims 1, 17, 32, and 48, and the claims depending therefrom, are submitted to be allowable and reconsideration and withdrawal of the Section 103 rejection of these claims is respectfully requested.

IV. Newly Added Claims 55-59 Are Allowable

Claims 55-59 are newly added herein. These claims recite features not taught or suggested by Dutta, Lev or Bushley. Additionally, since Claims 55-9 are dependent from either Claims 1, 17, 32 or 48, these claims are allowable for the same reasons that each base independent claim is allowable.

* * * * *

CONCLUSION

In view of the foregoing Amendments and Remarks, Applicant respectfully submits that all claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Le is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 13-4365.

Respectfully submitted,



R. Brian Drozd
Registration No. 55,130

Customer No. 54,494
Moore & Van Allen PLLC
Post Office Box 13706
430 Davis Drive, Suite 500
Research Triangle Park, North Carolina 27709
Phone: (704) 331-3549
Fax: (704) 339-5800

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